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TM

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,005	11/14/2003	Dietmar Spanke		7817
23364	7590	10/07/2005		
BACON & THOMAS, PLLC			EXAMINER	
625 SLATERS LANE			ALSOMIRI, ISAM A	
FOURTH FLOOR				
ALEXANDRIA, VA 22314			ART UNIT	PAPER NUMBER
			3662	

DATE MAILED: 10/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/712,005	SPANKE, DIETMAR
	Examiner Isam Alsomiri	Art Unit 3662

*The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 05 July 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 14-82 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) 14-82 are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 November 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. 10/067,312.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date. _____	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 14-21, 24-55, and 59-66, drawn to a measuring device wherein a repetition rate of the transmit signal is set at a range above 1 MHZ and the center frequency of the transmit signal is set a range above 0.5 GHz, and a center frequency of the intermediate-frequency signal lies above 50 KHz, classified in class 342, subclass 137.
- II. Claims 22-23 and 67-71, drawn to a measuring device including storing a first signal sequence, which represents a numerically performed multiplication of the sampling sequence by digital sine-wave signal sequence, and a second signal sequence, which represents a numerically performed multiplication of the sampling sequence by a digital cosine-wave signal sequence, classified in class 342, subclass 195.
- III. Claims 56-58, drawn to a level measuring device including a control unit with an analog-to-digital (A-D) converter and with a digital level computer, the A-D converter being coupled to an output of the transceiver unit providing the intermediate frequency signal, and the A-D converter providing a digital level computer with a digital intermediate frequency signal, classified in class 342, subclass 124.
- IV. Claims 72-82, drawn to a measuring device including storing a sampling sequence representing the intermediate-frequency signal, and a first

quadrature-signal sequence, which represents a real part of the IF signal, and a second quadrature-signal sequence, which represents a imaginary part of the IF signal, classified in class 342, subclass 194.

The inventions are distinct, each from the other because of the following reasons:

Inventions I, II, III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as the specific repetition rate, center frequency range, and the IF range. See MPEP § 806.05(d). Invention II has a separate utility such as storing a multiplication of the sampling sequence by digital sine-wave signal sequence, and a second signal sequence, which represents a numerically performed multiplication of the sampling sequence by a digital cosine-wave signal sequence. Invention III has a separate utility such as a control unit with a an A-D converter and with a digital level computer.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isam Alsomiri whose telephone number is 571-272-6970. The examiner can normally be reached on Monday-Friday 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarca can be reached on 571-272-6979. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Isam Alsomiri



October 3, 2005



THOMAS H. TARCZA  
SUPERVISORY PATENT EXAMINER  
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